



U.S. Department of Justice

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August 15, 2022

VIA EMAIL

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Re: United States v. Carlos E. Kepke, 3:21-cr-00155-JD (N.D. Cal.)

Dear Counsel:

Pursuant to the requirements of Federal Rule of Evidence 404(b), the government hereby gives notice that it intends to introduce evidence of Defendant's telephonic and in-person conversations with undercover IRS-CI Special Agents from March 2017 through August 2018, including testimony, recordings, and transcripts, in its case-in-chief in the above-entitled matter. This evidence is discussed in detail in the government's Motion in Limine, filed on August 12, 2022 (Doc. # 66).

In addition, the government intends to introduce evidence of Defendant's relationship with Robert Brockman and associated individuals, including the fact that Brockman introduced Defendant to Robert F. Smith, and

1. Defendant had a pre-existing professional relationship with Evatt Tamine and Tamine's employer Robert Brockman;
2. Defendant assisted Brockman in creating the A. Eugene Brockman Children's Trust in or about 1982;
3. Brockman and Tamine paid Defendant an annual retainer related to the A. Eugene Brockman Children's Trust;
4. On occasion Kepke acted as a conduit between Tamine/Brockman and Robert F. Smith;
5. In or about 2007 Defendant's primary point of contact with regard to his association with Brockman was Tamine;
6. In or about 2007 Tamine was named as the trustee of the A. Eugene Brockman Children's Trust;
7. As trustee of the A. Eugene Brockman Children's Trust Tamine took direction from Brockman;
8. Brockman made all substantive decisions regarding the A. Eugene Brockman Children's Trust;
9. Tamine was Brockman's employee. Brockman paid Tamine an annual salary, gave him an annual evaluation on his work performance; adjusted his salary based on his performance; and gave him "To Do" lists for the coming calendar year;

10. On occasion Tamine visited Defendant's offices to "purge" or "securitize" Defendant's files regarding both Smith and Brockman; and

11. In or about 2017 Defendant used Tamine as a personal reference for a potential new client (later revealed to be an IRS undercover Special Agent).

This evidence is detailed in, among other things, the affidavit previously produced to you as DOJ-0001590 to DOJ-0002281, and the following documents:

ET_0000009151

ET_0000012034

ET_0000045577

ET_0000046323

ET_0000046328

ET_0000047609

ET_0000048049

ET_0000049527

ET_0000062783

ET_0001504863

ET_0001692285

ET_0001725619

ET_0001731195

ET_0001790014

ET_0001807615

ET_0001862580

ET_0001862581

ET_0001862599

ET_0001862600

ET_0001865736

ET_0001865749

ET_0001865750

ET_0001880186

ET_0001880561

ET_0001881808

ET_0001881809

ET_0001882848

ET_0001882849

ET_0001884445
ET_0001908304
ET_0001908305
ET_0001908306
ET_0001927830
ET_0001927831
ET_0001927881
ET_0001939986
ET_0001941248
ET_0001965446
ET_0001967092
ET_0001967118
ET_0001967119
ET_0001995473
ET_0001995479
ET_0002007687
ET_0002007688
ET_0002012902
ET_0002012903
ET_0002023207
ET_0002023208
ET_0002052823
ET_0002080879
ET_0002086917
ET_0002096631
ET_0002096634
ET_0002096713
ET_0002125450
ET_0002131174
ET_0002131175
ET_0002131177
ET_0002148740
ET_0002148741

ET_0002148742
ET_0002148744
ET_0002166174
ET_0002178016
ET_0002178023
ET_0002194472
ET_0002194480
ET_0002215554
ET_0002215797
ET_0002215936
ET_0002216272
ET_0002245365
ET_0002245366
ET_0002270115
ET_0002270116

Please be advised that, in the government's view this evidence is inextricably intertwined with the criminal conduct set forth in the Indictment and, thus, admissible in the first instance pursuant to Federal Rule of Evidence 402. However, in the event that the Court finds that this conduct is not inextricably intertwined with the charged conduct, the government maintains alternatively that the above-identified evidence is admissible under Rule 404(b) to establish Defendant's knowledge, intent, absence of mistake or accident, preparation, plan, motive, opportunity, and identity with respect to the charged conduct.

The government reserves the right to provide timely notice of its intention to introduce additional Rule 404(b) material in the future.

Please contact me if you have any questions concerning the foregoing.

Very truly yours,

STEPHANIE M. HINDS
United States Attorney

s/ Michael G. Pitman
MICHAEL G. PITMAN
Assistant United States Attorney